IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No.590 of 1992

Date of Decision: January 24, 2007

Lal Singh

...Petitioner

VERSUS

The State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE RANJIT SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Ms.Madhu Dayal, Advocate,
for the petitioner.

Mr.M.C.Berry, Senior DAG, Punjab,
for the State.

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The petitioner, who stands convicted for an offence under Sections 304-A and 337 IPC, has filed this revision petition impugning his conviction and award of sentence of rigorous imprisonment for one year with fine of Rs.500/- under Section 304-A and six months rigorous imprisonment with fine of Rs.200/- for an offence under Section 337 IPC.

On 17.10.1990, petitioner Lal Singh, driver of bus No.HIB-204 belonging to Himachal Road Transport Corporation met with an accident with

Motor Cycle No.CHU-5881, driven by one Paramjit Singh with Gurdeep Singh, his friend, being on the pillion seat. This accident took place in the vicinity of Bhakra Canal bridge near Thermal Plant. As a result of this accident, Paramjit Singh and Gurdeep Singh received injuries. They were shifted to the hospital by their brother Kuldip Singh following them on a separate scooter. Paramjit Singh succumbed to his injuries in the hospital. Kuldip Singh complainant lodged FIR in this regard, leading to trial, conviction and sentence, as afore-mentioned. The petitioner failed in appeal. He has then filed this revision petition before this court.

The counsel for the petitioner has pointed out that the petitioner would now suffer the consequences of this trial and sentence at this belated stage. Pointing out that the incident in this case is of the year 1987 and petitioner stands convicted since the year 1990, has suffered enough because of this act, which does not contain any element of intention or motive. The counsel has accordingly confined her prayer only for release of the petitioner on probation, so as to release him of the consequences of his sentence. The counsel would submit that the petitioner is a Government employee and with the passage of time is now on the verge of retirement. Any sentence, now awarded to him, would seriously prejudice his case for the grant of pensionary benefits. This has been pleaded as an additional factor by the counsel to seek release of the petitioner on probation. In support of her contention, the counsel has drawn my attention to Gobind Ram Vs. The State of Haryana, 1978 C.L.R. 255 and Prem Singh Vs. The State of Punjab, 1980 C.L.R.235.

It cannot be denied that this incident is rather old. The petitioner would suffer the consequences of a sentence which has been awarded to him of an incident which is 20 years old. I see reason and justification in the prayer made by the counsel for the petitioner that if conviction and sentence are allowed to stand, it may affect the petitioner at this belated stage for grant of pension and pensionary benefits. If that happens, his family would also suffer the consequences of his action. The petitioner has apparently suffered enough because this conviction and sentence must be weighing in his mind for all these years. Nothing has been pointed out before me by the learned State counsel, which could stand in the way of the petitioner for grant of his release on probation. A prayer for release of the petitioner on probation was made before the trial Magistrate, which, however, was declined, but the Appellate Court did not take this aspect into consideration at all. Even the trial court appears to have not considered the provisions of Sections 360 and 361 Cr.P.C. No reasons were recorded to say why the benefit of these provisions was not given. The Hon'ble Supreme Court in the case of Chandreshwar Sharma Vs. State of Bihar, JT 2000(2) SC 36 has held that reading of Section 361 and 360 of the Code together would indicate that in any case where the courts have dealt with an accused under Section 360 of the Code, and yet does not want to grant the benefit of said provision then it shall record in its judgment the specific reasons for not doing so. This is not done and the Courts appear to have over looked the provisions of Sections 360 and 361 Cr.P.C. The courts apparently did not perform mandatory duty.

Taking all these aspects into consideration, I am of the

view that the submission made by the counsel for the petitioner would have force. Accordingly, while disposing of this petition, I am inclined to direct that the petitioner be released on probation for a good conduct instead of sentencing him and he be directed to enter into a bond with one surety to appear and receive the sentence when called upon during the period of one year for the purpose in question. The bond for this period shall be executed before the Chief Judicial Magistrate, Ropar within one month of this order.

The present revision petition is accordingly disposed of.

January 24, 2007 (RANJIT SINGH)
ramesh JUDGE